

By: Darby

H.B. No. 2277

A BILL TO BE ENTITLED

AN ACT

relating to fixing the median cost of high-cost gas wells.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.057, Tax Code, is amended by amending subsections (a), (c), (e) through (g), and (i), and adding subsection (g-1) to read as follows:

(a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "High-cost gas" means ~~+~~ ~~[(A)]~~ high-cost natural gas as described by Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section 3317), as that section exists on January 1, 1989, without regard to whether that section is in effect or whether a determination has been made that the gas is high-cost natural gas for purposes of that Act ~~[, or~~

~~[(B) all gas produced from oil wells or gas wells within a commission approved co-production project].~~

~~[(3) "Commission approved co-production project" means a reservoir development project in which the commission has recognized that water withdrawals from an oil or gas reservoir in excess of specified minimum volumes will result in recovery of additional oil and/or gas from the reservoir that would not be produced by conventional production methods and where operators of~~

1 ~~wells completed in the reservoir have begun to implement commission~~
2 ~~requirements to withdraw such volumes of water and dispose of such~~
3 ~~water outside the subject reservoir. Reservoirs potentially~~
4 ~~eligible for this designation shall be limited to those reservoirs~~
5 ~~in which oil and/or gas has been bypassed by water encroachment~~
6 ~~caused by production from the reservoir and such bypassed oil~~
7 ~~and/or gas may be produced as a result of reservoir-wide~~
8 ~~high-volume water withdrawals of natural formation water.]~~

9 ~~[(4) "High-volume water withdrawals" means the~~
10 ~~withdrawal of water from a reservoir in an amount sufficient to~~
11 ~~dewater portions of the reservoir containing oil and/or gas~~
12 ~~previously bypassed by water encroachment.]~~

13 ~~[(5) "Co-production" means the permanent removal of~~
14 ~~water from an oil and/or gas reservoir in an effort to lower the~~
15 ~~gas-water contact or oil-water contact in the reservoir or to~~
16 ~~reduce reservoir pressure to recover entrained hydrocarbons from~~
17 ~~the reservoir that would not be produced by conventional primary or~~
18 ~~secondary production methods.]~~

19 (6) "Operator" means the person responsible for the
20 actual physical operation of an oil or gas well.

21 (7) "Consecutive months" means months in consecutive
22 order, regardless of whether or not a well produces oil or gas
23 during any or all such months.

24 (c) High-cost gas as defined in Subsection (a)(2)
25 ~~[(a)(2)][(A)]~~ produced from a well that is spudded or completed
26 after August 31, 1996, is entitled to a reduction of the tax imposed
27 by this chapter for the first 120 consecutive calendar months

1 beginning on the first day of production, or until the cumulative
2 value of the tax reduction equals 50 percent of the drilling and
3 completion costs incurred for the well, whichever occurs first.
4 The amount of tax reduction shall be computed by subtracting from
5 the tax rate imposed by Section 201.052 the product of that tax rate
6 times the ratio of drilling and completion costs incurred for the
7 well to twice the median drilling and completion costs for
8 high-cost wells as defined in Subsection (a)(2) ~~[(a)(2)(A)]~~
9 spudded or completed during the previous state fiscal year, except
10 that the effective rate of tax may not be reduced below zero.

11 (e) The operator of a proposed or existing gas well,
12 including a gas well that has not been completed~~[, or the operator~~
13 ~~of any proposed or existing oil or gas well within a commission~~
14 ~~approved co-production project,]~~ may apply to the commission for
15 certification that the well produces or will produce high-cost gas.
16 Such application ~~[, if seeking certification as high-cost gas~~
17 ~~according to Subsection (a)(2)(A),]~~ may be made at any time after
18 the first day of production. The application may be made but is not
19 required to be made concurrently with a request for a determination
20 that gas produced from the well is high-cost natural gas for
21 purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section
22 3301 et seq.) ~~[or with a request for commission approval of a~~
23 ~~co-production project]~~. The commission may require an applicant to
24 provide the commission with any relevant information required to
25 administer this section. For purposes of this section, a
26 determination that gas is high-cost natural gas according to
27 Subsection (a)(2) ~~[(a)(2)(A) or a determination that gas is~~

1 ~~produced from within a commission approved co-production project]~~
2 is a certification that the gas is high-cost gas for purposes of
3 this section, and in that event additional certification is not
4 required to qualify for the ~~[exemption or]~~ tax reduction provided
5 by this section.

6 (f) To qualify for the ~~[exemption or]~~ tax reduction
7 provided by this section, the person responsible for paying the tax
8 must apply to the comptroller. The application must contain the
9 certification of the commission that the well produces high-cost
10 gas and~~[, if the application is for a well spudded or completed~~
11 ~~after September 1, 1995,]~~ must contain a report of drilling and
12 completion costs incurred for each well on a form and in the detail
13 as determined by the comptroller. Drilling and completion costs
14 for a recompletion shall only include current and contemporaneous
15 costs associated with the recompletion. Notwithstanding any other
16 provision of this section, to obtain the maximum ~~[tax exemption or]~~
17 tax deduction, an application to the comptroller for certification
18 according to Subsection (a)(2) ~~[(a)(2)(A)]~~ must be filed with the
19 comptroller at the later of the 180th day after the date of first
20 production or the 45th day after the date of approval by the
21 commission. If the application is not filed by the applicable
22 deadline, the ~~[tax exemption or]~~ tax deduction is reduced by 10
23 percent for the period beginning on the 180th day after the first
24 day of production and ending on the date on which the application is
25 filed with the comptroller. ~~[An application to the comptroller for~~
26 ~~certification according to Subsection (a)(2)(B) may not be filed~~
27 ~~before January 1, 1990, or after December 31, 1998.]~~ The

1 comptroller shall approve the application of a person who
 2 demonstrates that the gas is eligible for the ~~[exemption or]~~ tax
 3 reduction. The comptroller may require a person applying for the
 4 ~~[exemption or]~~ tax reduction to provide any relevant information in
 5 the person's monthly report that the comptroller considers
 6 necessary to administer this section. The commission shall notify
 7 the comptroller in writing immediately if it determines that a ~~[an~~
 8 ~~oil or gas]~~ well previously certified as producing high-cost gas
 9 does not produce high-cost gas or if it takes any action or
 10 discovers any information that affects the eligibility of gas for
 11 an exemption or tax reduction under this section.

12 (g) As soon as practicable after March 1 of each year, the
 13 comptroller shall determine ~~[from reports containing drilling and~~
 14 ~~completion cost data as required on applications to the comptroller~~
 15 ~~under Subsection (f),]~~ the median drilling and completion cost for
 16 all high-cost wells as defined in Subsection (a)(2) ~~[(a)(2)][(A)]~~
 17 for which an application for the ~~[exemption or]~~ reduced tax was made
 18 during the previous state fiscal year. In making its
 19 determination, the comptroller shall use the drilling and
 20 completion cost data required under Subsection (f). The ~~[Those]~~
 21 median drilling and completion cost ~~[costs]~~ shall be fixed as of the
 22 date of the comptroller's determination and shall be used to
 23 compute the reduced tax under Subsection (c).

24 (g-1) The report of drilling and completion costs required
 25 by subsection (f) may not be amended after March 1 of the year
 26 following the state fiscal year in which the application required
 27 by Subsection (f) was made.

1 (i) If, before the commission certifies that a well produces
 2 high-cost gas or before the comptroller approves an application for
 3 the ~~[an exemption or]~~ tax reduction under this section, the tax
 4 imposed by this chapter is paid on high-cost gas that otherwise
 5 qualifies for the ~~[exemption or]~~ tax reduction provided by this
 6 section, the person who remitted the tax shall be ~~[producer or~~
 7 ~~producers of the gas are]~~ entitled to a refund ~~credit against other~~
 8 ~~taxes imposed by this chapter]~~ in an amount equal to the difference
 9 between the amount of the tax paid and the amount of tax that would
 10 have been paid on the high-cost gas if it had received the ~~[on the~~
 11 ~~gas that otherwise qualified for the exemption or]~~ tax reduction as
 12 provided under this section. No refund shall be due under this
 13 subsection unless the comptroller approves an application for an
 14 exemption or tax reduction under this section ~~[on or after the first~~
 15 ~~day of the next month after the month in which the application for~~
 16 ~~certification under this section was filed with the commission].~~
 17 The ~~[If the application for certification is submitted to the~~
 18 ~~commission after January 1, 2004, the]~~ total allowable refund
 19 ~~[allowable credit]~~ for taxes paid for reporting periods before the
 20 date the application is filed may not exceed the total tax paid on
 21 the gas that otherwise qualified for the ~~[exemption or]~~ tax
 22 reduction and that was produced during the 24 consecutive calendar
 23 months immediately preceding the month in which the application for
 24 certification under this section was filed with the commission.
 25 ~~[The credit is allocated to each producer according to the~~
 26 ~~producer's proportionate share in the gas.]~~ To receive a refund ~~[a~~
 27 ~~credit]~~, the person entitled to the refund ~~[one or more of the~~

1 ~~producers]~~ must apply to the comptroller for the refund ~~[credit]~~
2 not later than the first anniversary after the date the comptroller
3 approves the application for a ~~[an exemption or]~~ tax reduction
4 under this section. ~~[If a producer demonstrates that the producer~~
5 ~~does not have sufficient tax liability under this chapter to claim~~
6 ~~the credit within five years from the date the application for the~~
7 ~~credit is made, the producer is entitled to a refund in the amount~~
8 ~~of any credit the comptroller determines may not be claimed within~~
9 ~~that five years. Nothing in this subsection shall relieve the~~
10 ~~obligation imposed by Subsection (b) to pay tax when due on~~
11 ~~high-cost gas produced from co-production projects on or before~~
12 ~~July 31, 1995.]~~

13 SECTION 2. Sections [201.057\(b\)](#), (d), and (j), Tax Code, are
14 repealed.

15 SECTION 3. This Act takes effect September 1, 2017.